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Presentment Date and Time:
October 8, 2024 at 12:00 noon

Objection Deadline:
October 5, 2024 at 12:00 noon

Counsel for Creditor Elliot Justin, M.D.

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

_____	X	
	:	
In re	:	CHAPTER 7
	:	
JULIAN ENDER DE FLANDRES,	:	CASE NO. 24-11100-pb
	:	
Debtor.	:	
_____	X	

**NOTICE OF PRESENTMENT OF ORDER GRANTING MOTION FOR EXTENSION
OF TIME TO FILE A DISCHARGEABILITY COMPLAINT
OBJECTING TO DEBTOR'S DISCHARGE**

PLEASE TAKE NOTICE that upon the annexed *Motion for Extension of Time to File a Dischargeability Complaint Under Section 727 of The Bankruptcy Code* of Elliot Justin, MD, the undersigned will present the attached proposed order to the Honorable Philip Bentley, United States Bankruptcy Judge, for signature on October 8, 2024 at 12:00 noon.

PLEASE TAKE FURTHER NOTICE that unless a written objection to the proposed order, with proof of service, is filed with the Clerk of the Court and a courtesy copy is delivered to the Bankruptcy Judge's chambers at least three days before the date of presentment, there will not be a hearing and the order may be signed.

PLEASE TAKE FURTHER NOTICE that if a written objection is timely filed, the Court will notify the moving and objecting parties of the date and time of the hearing and of the moving party's obligation to notify all other parties entitled to receive notice. The moving and objecting parties are required to attend the hearing, and failure to attend in person or by counsel may result in relief being granted or denied upon default.

Dated: October 1, 2024

CREDITOR,
ELLIOT JUSTIN, MD

By: /s/Rachael A. Kierych
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Counsel for Creditor Elliot Justin, MD

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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	:	
In re	:	CHAPTER 7
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JULIAN ENDER DE FLANDRES,	:	CASE NO. 24-11100-pb
	:	
Debtor.	:	
_____	X	

**MOTION FOR EXTENSION OF TIME TO FILE A DISCHARGEABILITY
COMPLAINT UNDER SECTIONS 727 OF THE BANKRUPTCY CODE**

ELLIOT JUSTIN, MD, a creditor in the above-captioned proceedings (“Movant”) through his counsel, respectfully moves for this Court to extend the time for sixty (60) days up to and including December 6, 2024, for the Movant to file a complaint pursuant to 11 U.S.C. § 727. In support of this motion, Movant represents and alleges as follows:

BACKGROUND

1. Julian DeFlandres (“Debtor”) commenced this case by filing a voluntary petition under Chapter 7 of the Bankruptcy Code on June 21, 2024. The United States Trustee appointed Kenneth Silverman to serve as Chapter 7 trustee (the “Chapter 7 Trustee”).

2. The initial meeting of creditors pursuant to 11 U.S.C. § 341(a) was scheduled for August 5, 2024.

3. The current deadline to object to dischargeability is October 7, 2024.

4. The Debtor is obligated to the Movant by virtue of a judgment entered by the Superior Court for the State of California on September 23, 2021, in the original pre-interest amount of \$89,872.31 (the “Judgment”). The Judgment arises from an action to recover damages related to funds Movant loaned to Debtor’s company for the financing of his marijuana business. As a material term of that loan transaction, Movant required that the debt instrument be secured by a personal guaranty executed by the Debtor. The loan went into default and Debtor failed to pay the monies due and owed pursuant to the personal guaranty.

5. Shortly before this bankruptcy was filed, Debtor threatened to blackmail Movant when Movant attempted to collect the Judgment. Debtor also threatened that he would file for bankruptcy if Movant continued his collection efforts. This bankruptcy ensued.

6. Separately, Movant’s counsel is a sole practitioner who has been out on an unexpected medical leave since early July 2024 and subsequent maternity leave into September 2024. Movant’s counsel just returned to the office part-time in mid-September.

7. Upon returning to the office, Movant’s counsel promptly contacted Debtor’s counsel to request additional information about Debtor’s finances, *to wit*, how Debtor is sustaining his cost of living in Manhattan (including renting an apartment in an Upper Westside Trump building on Riverside Blvd.) while purporting *de minimis* income in his filings in this bankruptcy. Movant has yet to receive a response.

8. Moreover, Movant’s counsel is currently located in Tampa Bay, Florida and lost additional working hours as a result of Hurricane Helene.

9. As a result of the foregoing circumstances, particularly counsel’s medical leave, Movant has not had the opportunity to conduct discovery. Thus, the requested extension will allow the Movant sufficient time to conduct a Rule 2004 examination of the Debtor under oath

concerning the scheduled assets and liabilities and the information contained on his Statement of Financial Affairs.¹

10. Debtor's counsel was apprised of these circumstances and on September 30, 2024 advised that Debtor would not consent to an extension.

CAUSE EXISTS TO EXTEND THE TIME TO OBJECT TO DISCHARGE

11. The Court may grant a motion by a party in interest to extend the time to object to the discharge for "cause." Fed. R. Bankr.P. 4004(b)(1); *In re Bressler*, No. 06–11897, 2007 WL 98493, at *1 n. 1 (Bankr. S.D.N.Y. Jan. 12, 2007); *In re Nowinski*, 291 B.R. 302, 305 (Bankr.S.D.N.Y.2003).

12. "Cause" is not defined in Bankruptcy Rule 4004(b), and the determination is committed to the Court's discretion. *Robinson*, 2013 WL 3993741, at *2 (Bankr. S.D.N.Y. Aug. 1, 2013).

13. The factors that inform the court's discretion include (1) whether the party in interest had sufficient notice of the deadline and the information to file an objection, (2) the complexity of the case, (3) whether the party in interest exercised diligence, (4) whether the debtor refused in bad faith to cooperate with the party in interest, and (5) the possibility that proceedings pending in another forum will result in collateral estoppel on the relevant issues. *Robinson*, 2013 WL 3993741 at *2; *Bressler*, 2007 WL 98493, at *1 n. 1; *Nowinski*, 291 B.R. at 305–06.

14. Here, factors one, three and four are applicable. *First*, Movant's counsel received notice in July 2024 of the deadline, but was out on an unexpected and urgent medical leave. Shortly thereafter, her child was delivered early resulting in an early maternity leave. *Second*,

¹ Movant's counsel attempted to file this Motion on September 30, 2024, but unfortunately encountered issues with ECF.

promptly upon returning to the office, Movant's counsel contacted Debtor's counsel requesting additional information about Debtor's finances. To date, such information has not been received. *Finally*, the Debtor has refused to cooperate with Movant, and believed to have filed this proceeding in bad faith following Judgment collection efforts that were met with obstruction and serious threats against Movant by the Debtor. Moreover, although Movant's counsel has experienced legitimate extenuating circumstances that are ordinarily met with a reasonable stipulation of adjournment, the Debtor has refused Movant's reasonable request.

WHEREFORE, the Movant respectfully requests that this Court enter an order extending the time within which Movant may file a complaint under 11 U.S.C. § 727 to December 6, 2024, and granting such other relief as this Court deems right and just.

Dated: October 1, 2024

Respectfully submitted,

By: /s/ Rachael A. Kierych
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Counsel for Creditor Elliot Justin, MD

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Debtor.	:	
_____	X	

**[PROPOSED] ORDER GRANTING MOTION FOR EXTENSION OF TIME
TO FILE SECTION 727 COMPLAINT**

Elliot Justin, MD (the “Movant”) filed a Motion for Extension of Time to File a Section 727 Complaint, ECF No. _____. After notice, and it appearing that the relief in the Motion should be granted, it is hereby

ORDERED, that the time for the Movant to file a § 727 Complaint is extended to December 6, 2024.

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Counsel for Creditor Elliot Justin, MD

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	:	
Debtor.	:	
_____	x	

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on October 1, 2024, the foregoing Notice of Presentment, Motion, and proposed Order was electronically filed. Notice of this filing will be sent by e-mail to all parties by operation of the Court's electronic filing system or by mail to anyone unable to accept electronic filing. Parties may access this filing through the Court's system.

/s/ Rachael A. Kierych
Rachael A. Kierych (rk1339)